

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE:

Ana Medina

JP Morgan Chase Bank, National Association,

VS.

Ana Medina

CHAPTER 7
CASE NO. 10-13545-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

JP Morgan Chase Bank, National Association, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 3415 Vision Drive, Columbus, OH 43219.
2. The debtor, Ana Medina, has a mailing address of 100 Daboll Street, Providence, RI 02907.
3. On August 27, 2010, the debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a second mortgage on real estate in the original amount of \$33,500.00 given by Ana Medina to Mortgage Electronic Registration Systems, Inc. on or about October 5, 2006. Said mortgage is recorded with the Providence Land Records at Book 8331, Page 340 and covers the premises located at 100 Daboll Street, Providence, RI 02907.
5. Said mortgage secures a note given by Ana Medina to Homecomings Financial Network, Inc., in the original amount of \$33,500.00.
6. As of September 30, 2010, approximately \$43,914.32 in principal, interest, late fees and

In Re: Ana Medina
Case No. 10-13545-ANV
CHAPTER 7

other charges was due with regard to the note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.

7. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
Homecomings Financial	First Mortgage	\$ 328,000.00
JP Morgan Chase Bank, National Association	Second Mortgage	\$ 43,914.32
Total Secured Encumbrances:		\$ 371,914.32

8. According to the debtor's schedules, the fair market value of the subject property is \$144,400.00.

9. The note and mortgage are in default for the July 1, 2008 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the movant.

10. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor is in default on said contractual obligations, the primary purpose of a Chapter 7 proceeding is to liquidate the assets of the debtor, there is no equity and the trustee has no motivation to liquidate the subject property;

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that there is no equity in the subject property and, there being no reorganization in prospect, the property is not necessary for

effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

JP Morgan Chase Bank, National Association,
By its Attorney

/s/ Elizabeth A. Lonardo

Elizabeth A. Lonardo, Esquire

RI #7714

HARMON LAW OFFICES, P.C.

P.O. Box 610345

Newton Highlands, MA 02461-0345

781-292-3900

ribk@harmonlaw.com

October 1, 2010

Within fourteen (14) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE:

Ana Medina.

CHAPTER 7
CASE NO. 10-13545-ANV

CERTIFICATE OF SERVICE

I, Elizabeth A. Lonardo, Esquire, state that on October 1, 2010, I electronically filed the foregoing Motion of Relief from Stay with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Gary L. Donahue, Esquire, Assistant U.S. Trustee
Charles A. Pisaturo, Jr., Esquire, Chapter 7 Trustee
John B. Ennis, Esquire for the Debtor

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Elizabeth A. Lonardo
Elizabeth A. Lonardo, Esquire
RI# 7714

Ana Medina
100 Daboll Street
Providence, RI 02907

Homecomings Finance
9 Sylvan Way, Suite 100
Parsippany, NJ 07054

EXL//201009-1868/Medina, Ana